CF 3001

1 (A)

Single Bench

IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR

WRIT PETITION (S) No. /2006

PETITIONERS :1) Smt. Triveni Awasthi, W/o. Shri A.K. Awashti, aged about 47 years, Occupation- Govt. Servant, Head Mistress at Govt. Nivedita Girls Middle School (B), Raipur, Block Dharsinwa, District Raipur R/o. Bramhpuri, Raipur (C.G.).

P.R. No. 715/06 M. Alam 7-12-06

:2) Smt. Jamsheed Bawra, W/o. Shri Ali Bawra, aged about 56 years, Occupation- Govt. Servant, (UDT) (Assistant Teacher at Govt. Nivedita Girls Middle School (B), Raipur, Block Dharsinwa, District Raipur R/o. Devendra Nagar, Raipur (C.G.).

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:3) Ku. Pushpa Mudliyar, D/o. Shri C.P.R. Mudliyar aged about 47 years, Occupation- Govt. Servant, (U.D.T) at Govt. Nivedita Girls Middle School (B), Raipur, Block Dharsinwa, District Raipur R/o. Bramhpuri, Raipur (C.G.).

VERSUS

RESPONDENTS :1) State of C.G., Through Secretary, Department of School Education, DKS Bhawan, Mantralaya, Raipur (C.G.)

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:2) District Education Officer, Raipur (C.G.)

:3) Block Education Officer, Dharsinwa, District Raipur (C.G.)

WRIT PETIION UNDER ARTICLE 226

OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 7019 of 2006

Petitioners : Smt. Triveni Awasthi and others

Versus

Respondents : State of Chhattisgarh & another

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Mahrooj Alam, Advocate for the Petitioners.

Shri Sushil Dubey, Govt. Advocate for the State/respondents.

ORDER

(Passed on this 15th day of December, 2006)

1. The petitioners are working as Upper Division Teachers/Assistant Teachers in the government schools. In the course of their services as Upper Division Teachers/Assistant Teachers, the petitioners have obtained B. Ed. examination certificates on their own expenses before 1.3.1999.

2. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. /B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 (Annexure P/7) issued by the State Government of Madhya Pradesh.

3. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh

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State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A.No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

4. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B.Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

5. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra),

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to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

6. Accordingly, the writ petitions are allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B. Ed. Examination Certificates on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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